CROWN LAND SUBCOMMITTEE REPORT

March 3, 2005

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ACRE CROWN LAND SUBCOMMITTEE REPORT

Executive Summary

Crown land administration in Saskatchewan is, in one word, challenging. Residents of Saskatchewan who have had the good fortune to access Crown land as part of their operation for many years have come to think of it as "theirs". The public often cannot understand that affinity to the land and if they are prepared to press it, a conflict erupts. In other jurisdictions, as society becomes more urban, these conflicts become more pronounced. To date, Saskatchewan has mostly been spared these types of conflicts, but there is evidence that this is changing (i.e. Great Sand Hills).

The ACRE Crown Land Subcommittee was charged with reviewing and making recommendations to government, focusing on how Crown land can be used to facilitate economic activity in rural Saskatchewan. Early in their deliberations a number of things became apparent; those being:

- Crown land does contribute significantly to the economic well being of the province and there needs to be some changes to maximize the opportunities that exist.
- There lacked an overall goal for the Crown land that the province owned and this manifested itself by having a variety of policies and processes that appeared to have no central driving force. They appeared disjointed and, at times, at cross purposes.
- There is a strong likelihood that the Crown land portfolio needn't be the same once an overall goal is established.
- The legislation that governs Crown land management in Saskatchewan has become severely outdated. The legislation does not provide the proper authorities needed to deal with land management and planning issues. This deficiency can impede development opportunities.
- Crown land administration is fragmented across a variety of departments/agencies, all of which have different mandates. This is at the expense of any efficiency that could be gained through a common administrative link and an attempt to consolidate mandates.
- A disposition on Crown land is a valuable commodity and the holder of that commodity needs to have secure tenure in order to grow and expand. However, this must be tempered with an understanding that as long as the land is owned by the Crown it is a public resource and must be treated as such. There is a lack of understanding in this regard.

The Subcommittee held a number of meetings which ultimately resulted in the development of a questionnaire to solicit feedback from interested parties on a variety of issues related to Crown land. This questionnaire was circulated and responses compiled. The Subcommittee also made themselves available for interested parties to make a presentation. The following groups presented to the Subcommittee:

- Federation of Saskatchewan Indian Nations
- Ducks Unlimited Canada
- Saskatchewan Outfitters Association
- Saskatchewan Stock Grower's Association
- Saskatchewan Landowner/Lessee Rights Group
- Crown Land Tenants Association

A summary of the questionnaire and responses are attached as Appendix A.

Recommendations

1. **ACRE recommends that, through consultation with stakeholders, Government develop an overarching goal for Crown land management. The goal needs to address:**
   a) **the purpose for the Crown holding Crown land;**
   b) **the criteria for balancing economic, environmental, and social considerations; and,**
   c) **the criteria for retaining or disposing of Crown land.**

2. **ACRE recommends that the Crown land inventory be divided into two categories, based on land type and the overarching goal established respecting Crown land use. These two categories should be managed, according to the following:**

   a) **Land that is deemed important to be retained by the Crown should be administered by one government agency mandated to use the land to facilitate economic activity while ensuring it is protected and preserved for future generations. Appropriate linkages must be coordinated with affected departments to ensure the management of the land meets broad government goals as mandated by the various departments. While some economies are expected through an amalgamation of the land holdings into one agency, adequate resources must be provided to the agency in order that the true potential of the portfolio can be achieved. Appropriate fees need to be developed for new initiatives that recognize the rights being disposed and the factors limiting use.**

   b) **Land that is deemed surplus [1] should be managed with a mandate to dispose of and obtain market value for the land. The time frame for disposal should recognize: existing agreements; revenue for government; the impact large blocks of land entering the market will have on land values; opportunities to meet conservation objectives through vehicles like conservation agreements; and, economic development opportunities.**

[1] Includes all lands that are no longer required to meet legal obligations (e.g. Treaty Land Entitlement (TLE)) or for environmental (ie. wildlife, fragile, representative areas, etc.); economic (i.e. forestry, sand & gravel, minerals, etc.); or, social (i.e. public use, heritage, etc.) reasons. The process to identify the specific lands should be developed through further stakeholder consultation.

3. **ACRE recommends that the economic opportunities associated with non-traditional land uses, and in particular, where these uses can co-exist with others, be promoted, ensuring existing rights are not altered without appropriate compensation. A model to determine appropriate compensation needs to be developed that accounts for the actual impact of the new/existing activity on the existing user's operation, including loss of use, nuisance and overall impact to the existing management and an appeal mechanism put in place where the model does not adequately compensate the existing user.**

4. **ACRE recommends that clear processes be included in regulation to allow the land administering agencies to deal effectively with actions that result in, or have the potential to result in, ecological damage to the land. The processes need to be progressive and, where appropriate, provide opportunities for corrective action. However, they must also allow the agencies to deal with abuse effectively where the abuser fails to correct his/her approach and the land is at risk.**

5. **ACRE recommends that government develop and adopt provincial integrated resource management planning standards that ensure the provincial interests are accounted for in regional and local planning exercises. Government also needs to ensure that the planning process is made as "proponent friendly" as possible in order to encourage economic development.**

6. **ACRE recommends that government incorporate into land use policies recognition of the existing rights associated with a disposition, and communicate, with lease holders, in order to avoid confusion if additional rights are extended to other land users.**

7. **ACRE recommends that government ensure contractual obligations to First Nations are honoured, including Treaty Land Entitlement (TLE) and Specific Land Claims. The commitments made to First Nations under these agreements, as well as commitments to third party interests (i.e. lease and permit holders), as they relate to TLE and Specific Land Claims, must be communicated in a way that enhances the understanding of both First Nation and non-First Nation people.**

8. **ACRE recommends that the outdated *Provincial Lands Act* and regulations under the *Act* be re-written. The authorities contained in the *Act* need to be updated and modernized and the legislation needs to:**
   a) **Account for all provincially owned Crown land;**
   b) **Respect the existing rights;**
   c) **Define, assess, and regulate multi-use opportunities;**
   d) **Define, assess, and regulate non-traditional use opportunities;**
   e) **Provide alternative disposition options (ie. licenses) that result in fewer rights being disposed of in some circumstances;**
   f) **Provide authority to deal with mismanagement of land where the land is being harmed;**

g) **Require use of integrated resource management tools when making land use decisions;**
h) **Provide authority to dispose of lands that are deemed surplus to the province's needs;**
i) **Provide authority to acquire lands that are deemed to be in the public interest;**
j) **Balance the disposition of private benefits with the overall public good;**
k) **Respect the rights allocated through a disposition and fairly compensates the holder of these rights when impacted by other dispositions;**
l) **Re-affirm the commitment of the province to settle TLE and Specific Land Claims, and;**
m) **Provide the flexibility to address future changes to land use needs.**

Background

Crown land administration has a rich and colorful history in Saskatchewan that can be traced back to the granting of land, then known as Rupert's Land, to the Hudson's Bay Company in the late 17th century. The majority of these lands were re-conveyed to the British Crown for £300,000 on June 22, 1870. This was followed on July 15, 1870, when Rupert's Land and the North West Territories, became part of Canada.

In 1872 *The Dominion Lands Act*, combined with *The Immigration and Colonization Act*, set the stage for an influx of immigrants who could take advantage of "free land" on which to establish homesteads. In 1885 the trans-continental railway was completed which provided the link between eastern Canada and the west coast. It also provided a relatively safe and reliable means for homesteaders to reach their destination.

While homesteading was occurring, large ranches saw the railroad as an effective way of getting beef east and, largely through the efforts of Senator Matthew Cochrane, who negotiated a large lease in southern Alberta, the leasing of Crown land began.

Although Saskatchewan became a province in 1905, the federal government retained all Crown resources, including the Crown owned land, until 1930 when the *Saskatchewan Natural Resources Transfer Agreement* transferred these lands to the province. This transfer put Saskatchewan in the same position as the original Provinces of Confederation.

From 1901 to 1931 Saskatchewan's population increased ten fold, from just over 90,000 to over 920,000; 650,000 of which lived in rural Saskatchewan. In 1936, the number of farms in Saskatchewan peaked at just over 142,000. This increase in population, coupled with the expansion of the agricultural industry, helped focus attention on the agricultural use of Crown land.

From 1930 to 1947, Crown lands were administered by the Department of Natural Resources. It wasn't until March 5, 1947, that the Crown land portfolio was divided into two; with the lands in the northern settlement area and parklands remaining with the Department of Natural Resources, and the balance of the lands in the southern settled area being transferred to the Department of Agriculture.

Over the next fifty years Crown land administration would evolve to what it is today. The large ranches that were established in western Canada, in the late 19th century, had eventually disappeared and were replaced by homesteads and moderate size ranches. While homesteading initially diminished the portfolio, some of these lands would eventually be re-aquired through a variety of programs (i.e. conservation; tax enforcement; intergenerational transfer; etc). In more recent times land would be sold under various programs (i.e. lessee sale; tender sale; Rent-to-Own; Treaty Land Entitlement; etc.), until the current portfolio exists:

Agency[2]	Acres
Agriculture	7,379,000[3]
Environment	93,200,000
Saskatchewan Watershed Authority	120,000
Highways & Transportation	1,491,000

Agricultural Crown land management has evolved over the last 50 years to favour traditional agricultural use and to provide tenure that is very near private ownership. This approach has made a Crown agricultural lease a valued commodity and added some stability to a sometimes volatile agricultural sector. With the onset of globalization and free trade issues Crown land is seen by some as a subsidized entity.

The Provincial Lands Act provides the legislative authority that governs how Crown land is managed in Saskatchewan. Saskatchewan Environment (SE) and SAFRR jointly administer it.

Agricultural Crown land policies have also been the source of controversy over the years. Because land is a finite resource, competition for it is often fierce. Past approaches taken by the Crown have ranged from one of acquisition (i.e. the Saskatchewan Land Bank program 1972-1983) to one of disposal (i.e. Rent-to-Own program 1991-92). Society's expectations also reflect these extreme and conflicting viewpoints.

Past policy changes have too often been directed at a perceived problem and made in isolation without the benefit of an overall policy framework on what government wanted to achieve through the ownership and management of Crown Land. This approach has, in many instances, created as many problems as it solved. For example, changing sale

[2] Does not include Crown Corporations.
[3] Does not include land under surveyed water bodies or lands that are traditionally vacant.

policies, in an attempt to dispose of more Crown holdings and generate revenue, without clearly identifying which lands should be sold, creates confusion.

Key Crown Land Issues

The Subcommittee has identified a number of issues related to Crown land administration in Saskatchewan. The following describes them:

I. Vision for Crown land ownership in Saskatchewan

a. Develop goals, objectives and a delivery strategy

Crown land has played, and continues to play an important role in Saskatchewan. The administration of Crown land is fragmented across a variety of departments and agencies, with the bulk administered by Saskatchewan Environment (SE) in the north and Saskatchewan Agriculture, Food and Rural Revitalization (SAFRR) in the settled area of the province. Other agencies include: Saskatchewan Watershed Authority, Saskatchewan Highways and Transportation; Saskatchewan Property Management Corporation, and; the major Crown Corporations.

Policies for administering these lands have evolved within the respective agencies largely uncoordinated and under outdated legislation. Policy objectives can be conflicting (i.e. development versus conservation; social versus economic; etc.) which can suppress economic growth.

II. Overview of Crown land use

a. Accommodate multi-use

In its initial recommendations, ACRE recommended that government "....establish the legislative, regulatory and policy framework to encourage the sustainable non-traditional and, where possible, multi-use of Crown agricultural lands...". This remains an untapped opportunity.

b. Economic development versus environmental sustainability

The challenge of reconciling economic opportunities and environmental attributes on Crown land remains the most crucial and daunting challenge for administrators when making land use decisions.

c. Holding lessees accountable for management

The success or failure of any Crown land initiative is ultimately judged by the effect of the initiative on the land. Where land abuse occurs, policies and procedures must hold the proponent accountable.

d. Identify land uses and appropriate fees

Cultivation, grazing and petroleum and gas development fees are examples of fees that have been in place for many years and are supported in regulation. The fees for many of the new and innovative land uses that are beginning to occur have yet to be established. This results in uncertainty when dealing with these proposals.

III. Assess the need for integrated land use planning

a. Local versus regional versus provincial

Integrated resource management[4] planning is the best known method of dealing with land use conflicts. These planning initiatives are very resource intensive and can delay worthwhile initiatives. A common understanding and approach for implementing these planning processes is required.

IV. Accessing occupied Crown land

a. Lessee rights versus non-lessee rights

A Crown agricultural lease typically runs for thirty-three years and provides the lessee with rights very close to fee simple ownership. A proponent who wishes to use Crown land that is under disposition can be stopped when an impasse with the existing lessee occurs.

b. Compensation

A Crown lessee can invest a significant amount of time, energy and resources in a lease. A further investment can occur when dealing with an alternate use proposal (e.g. petroleum and gas). While the Crown typically does compensate the lessee for the nuisance, inconvenience and loss of use that occurs, many lessees feel this compensation is inadequate. This must be balanced with the public expectation that the Crown is getting appropriately reimbursed for the use that occurs.

V. Security of tenure

a. Rights that are conveyed and how they are valued

A Crown disposition conveys substantial rights to the land user. Some would argue the rights associated with, for example an agricultural lease, are too many. Lessees would argue they need these rights because of the

[4] Integrated Resource Management is the management of all resources located in an area in a sustainable and coordinated manner that typically results in less conflict and achieves a balance of economic, social and environmental considerations.

investment they have in the property.

b. How rights are conveyed (i.e. sale versus lease versus license versus permit)

Typically Crown land is disposed of by lease or permit. Sale of some Crown property occurs each year. Licensing of some activities occurs on SE land. These practices have been in place, largely unchanged, for over fifty years.

Some would argue that the Crown should divest itself of all land and use the resulting money for other purposes, others would argue that the Crown should be viewed as a repository for natural landscapes and should acquire more.

VI. Understanding Treaty Land Entitlement (TLE) process.

The TLE process is not well understood by aboriginal and non-aboriginal people alike.

VII. Review of *The Provincial Lands Act and Regulations.*

a. Determining the appropriate legislative framework to support Crown land management in Saskatchewan

The legislation and policies that govern how this land is administered are approaching forty years old. Other jurisdictions have more modern legislation with Saskatchewan one of the oldest, if not the oldest, piece of legislation governing Crown land. This combined with the fact that Crown land management is disbursed across a variety of agencies and departments make this an important objective.

Rationale for Recommendations

1. ACRE recommends that, through consultation with stakeholders, Government develop an overarching goal for Crown land management. The goal needs to address:

a) the purpose for the Crown holding Crown land;
b) the criteria for balancing economic, environmental, and social considerations; and,
c) the criteria for retaining or disposing of Crown land.

Successful Crown land administration requires policy that balances the public good with the allocated private benefits. In order to do this, three overarching goals must be determined and balanced in a sustainable manner. These three goals are: economic; environmental; and, social.

Economic

Crown land contributes to the overall economic well-being of the province by providing a significant resource base for economic activity that requires a land base. The residents of this province benefit both by the opportunities afforded on the land and through the land use charges that are directed to the public purse.

There are significant economic opportunities that exist on Crown land. In addition to traditional uses such as agriculture, forestry, etc., it offers unique opportunities for expanded non-consumptive and complementary uses for recreation, tourism and ecotourism given the natural attractiveness of the lands.

Establishing the economic goal of Crown land must take into account the following:

- The value of the land in real dollars;
- The economic impact of the activities that occur on the land;
- The contributive value that the land has to these activities;
- The value that the land would bring for these activities in the private market, and;
- The expected rate of return to the province for these activities.

Environmental

Crown land routinely becomes a primary focus of environmental interests, particularly in the settled area of the province. Because of the vegetative cover-types, it is often viewed as environmentally significant. The most significant legislative instrument that illustrates this is *The Wildlife Habitat Protection Act*. Under this legislation, over 3 million acres have been identified as important for wildlife and are subject to sale and development restrictions.

The users of Crown land are expected to manage it in an environmentally sustainable manner and because of its public ownership, users come under substantial scrutiny.

Establishing the environmental goal of Crown land must take into account the following:

- The overall provincial environmental objectives;
- The variety of land types that exist;
- The uses that can be made of the various land types;
- The collective environmental expectations that Crown land can contribute to;
- The mechanisms that must be in place to ensure that environmental expectations are met, and;
- The impact of environmental values on other uses.

Social

Crown land has historically been used to achieve social objectives, although they have remained rather loosely defined. For example, new agricultural lease allocations are targeted to younger (i.e. 23-35 years) farmers who are less than average sized, and in close proximity to the land, in an effort to provide opportunities to a select segment of the agricultural community. While this type of social targeting has been used for many years, no broader goals have ever been established, nor has any in-depth analysis ever occurred to determine if social targeting meets any social objective.

Crown lands also have other social significance. They contain heritage sites; comprise areas of ecological importance; and, may be linked to First Nation traditional use. The social objectives sought in managing these lands need to be re-defined and government's role in the social engineering of the agricultural sector versus using these lands for other social benefits, debated.

Establishing the social goal of Crown land must take into account the following:

- The overall provincial social objectives;
- The opportunities that Crown land can provide to meeting the objectives, and;
- The impact of pursuing social objectives on other uses.

Balancing these three overarching goals will require compromise, not the least of which will relate to risk; risk of economic activities harming the environment; risk of social targeting impacting revenues; risk of missed opportunities due to environmental concerns; etc. Without having a clear policy balance; however, the historical uncertainties that currently exist will continue.

2. **ACRE recommends that the Crown land inventory be divided into two categories, based on land type and the overarching goal established respecting Crown land use. These two categories should be managed, according to the following:**

   a) **Land that is deemed important to be retained by the Crown should be administered by one government agency mandated to use the land to facilitate economic activity while ensuring it is protected and preserved for future generations. Appropriate linkages must be coordinated with affected departments to ensure the management of the land meets broad government goals as mandated by the various departments. While some economies are expected through an amalgamation of the land holdings into one agency, adequate resources must be provided to the agency in order that the true potential of the portfolio can be achieved. Appropriate fees need to be developed for new initiatives that recognize the rights being disposed and the factors limiting use.**

b) **Land that is deemed surplus [5] should be managed with a mandate to dispose of and obtain market value for the land. The time frame for disposal should recognize: existing agreements; revenue for government; the impact large blocks of land entering the market will have on land values; opportunities to meet conservation objectives through vehicles like conservation agreements; and, economic development opportunities.**

Presently, the administration of Crown land is spread across a number of agencies all with different mandates and objectives. This has led to confusion and delays in facilitating economic development and has resulted in duplication of administration. Examples are:

i. Great Sand Hills Land Use Review – occurred in 2002-2004 and was led by SE and Saskatchewan Industry and Resources while the land in question was administered by SAFRR. As well, much of the land was designated under *The Wildlife Habitat Protection Act (WHPA)*, which is administered by SE.
ii. Saskatchewan Watershed Authority's (SWA) watershed planning – This initiative can impact the use of numerous acres of Crown land and may influence ongoing land use plans other Crown land agencies are working on.
iii. Administrative efficiencies – SAFRR has an elaborate and extensive computerized land management system. This system was designed exclusively for SAFRR but likely has applications in other land administering agencies. Similarly, land disposition functions are duplicated across all agencies, as are policy/regulations.

Placing all of the land in one agency, and mandating that agency to ensure the retained land is used as an economic tool, provided the health of the land is unharmed, will clearly signal that the province is interested in sustainable development. Also, by ensuring other departmental mandates are accounted for, they will still influence land use but not direct it.

There are a variety of reasons why the Crown has land. Most of these reasons are from another era and the reasons for having land publicly owned have changed over the years. The Crown also sells land. It is anticipated that aligning the goals for Crown land with the actual inventory will identify significant acreage that no longer meets any need to be retained by the public and will undoubtedly be available for transfer to the private sector. Once those lands have been identified, then the most expedient way to sell the land that will result in the greatest return to the province should be used. Opportunities for economic development can also be pursued as the land is used to obtain maximum returns.

[5] Includes all lands that are no longer required to meet legal obligations (e.g. Treaty Land Entitlement (TLE)) or for environmental (ie. wildlife, fragile, representative areas, etc.); economic (i.e. forestry, sand & gravel, minerals, etc.); or, social (i.e. public use, heritage, etc.) reasons. The process to identify the specific lands should be developed through further stakeholder consultation.

3. **ACRE recommends that the economic opportunities associated with non-traditional land uses, and in particular, where these uses can co-exist with others, be promoted, ensuring existing rights are not altered without appropriate compensation. A model to determine appropriate compensation needs to be developed that accounts for the actual impact of the new/existing activity on the existing user's operation, including loss of use, nuisance and overall impact to the existing management and an appeal mechanism put in place where the model does not adequately compensate the existing user.**

   ACRE's initial report included a recommendation to pursue non-traditional and multiple land uses. This opportunity still exists and it is essential that government take the necessary steps to allow this to occur.

   This recommendation also addresses the importance of properly compensating individuals whose livelihood is being impacted by the new use. By establishing a model that identifies the economic impact of the new use, existing users will be adequately compensated. In recognition that any model cannot account for all circumstances, an appeal mechanism will allow the administrators to compensate fairly in all circumstances.

4. **ACRE recommends that clear processes be included in regulation to allow the land administering agencies to deal effectively with actions that result in, or have the potential to result in, ecological damage to the land. The processes need to be progressive and, where appropriate, provide opportunities for corrective action. However, they must also allow the agencies to deal with abuse effectively where the abuser fails to correct his/her approach and the land is at risk.**

   Government's ability to manage land is often judged by the action it takes when a particular parcel is not being used properly. A careful balance between enforcing regulation and allowing opportunities for compliance must be achieved. Agencies need to find that balance and ensure that proper action is taken when land users are causing injury to the land. Government needs to ensure that the legislation exists to allow this to occur.

5. **ACRE recommends that government develop and adopt provincial integrated resource management planning standards that ensure the provincial interests are accounted for in regional and local planning exercises. Government also needs to ensure that the planning process is made as "proponent friendly" as possible in order to encourage economic development.**

   Regional and local land use plans are an excellent way to engage people most closely associated with the planning area. They are undoubtedly the best mechanism to resolve land use conflicts or to establish ongoing standards. They are; however, extremely resource intensive, for all involved, and not always development friendly. Additionally, because there are no provincial standards pre-approved, the provincial interests are either created separately for each plan or abrogated to regional/local interests. This can result in differences from region to region that are irreconcilable.

By creating a set of provincial standards so that the planners understand the provincial interest and creating them in a way that ensures that they are "development friendly", the success of the individual plans will be enhanced and fewer resources will be required to complete them.

6. **ACRE recommends that government incorporate into land use policies recognition of the existing rights associated with a disposition, and communicate, with lease holders, in order to avoid confusion if additional rights are extended to other land users.**

   In order to allow economic development on Crown land to occur at an optimal pace, the rights associated with a disposition needs to be clearly communicated and understood by all parties. Because many leases have been in place for a generation or more, with little government involvement, the lessees tend to treat their leases as they would their private land. This sometimes includes a misunderstanding of the actual rights that were conveyed by the lease.

   On the other hand, lessees typically have a significant investment, both monetarily and emotionally, to the land included in their lease. Their livelihood can be impacted by any activity that occurs that is detrimental to their use.

7. **ACRE recommends that government ensure contractual obligations to First Nations are honoured, including Treaty Land Entitlement (TLE) and Specific Land Claims. The commitments made to First Nations under these agreements, as well as commitments to third party interests (i.e. lease and permit holders), as they relate to TLE and Specific Land Claims, must be communicated in a way that enhances the understanding of both First Nation and non-First Nation people.**

   There is a great deal of misunderstanding by the general public, of the commitments made to First Nations in the TLE and Specific Land Claim agreements, particularly with regard to Crown land and the treatment of third-party interests. There is also misunderstanding within the First Nation communities in this regard.

   In addition to confirming the commitment to First Nations, government needs to better communicate these commitments as well as the commitments to third party interest holders. By creating a better understanding, not only will the processes be improved but the relationships will as well.

8. **ACRE recommends that the outdated *Provincial Lands Act* and regulations under the *Act* be re-written. The authorities contained in the *Act* need to be updated and modernized and the legislation needs to:**
   a) **Account for all provincially owned Crown land;**
   b) **Respect the existing rights;**
   c) **Define, assess, and regulate multi-use opportunities;**
   d) **Define, assess, and regulate non-traditional use opportunities;**

e) **Provide alternative disposition options (ie. licenses) that result in fewer rights being disposed of in some circumstances;**
f) **Provide authority to deal with mismanagement of land where the land is being harmed;**
g) **Require use of integrated resource management tools when making land use decisions;**
h) **Provide authority to dispose of lands that are deemed surplus to the province's needs;**
i) **Provide authority to acquire lands that are deemed to be in the public interest;**
j) **Balance the disposition of private benefits with the overall public good;**
k) **Respect the rights allocated through a disposition and fairly compensates the holder of these rights when impacted by other dispositions;**
l) **Re-affirm the commitment of the province to settle TLE and Specific Land Claims, and;**
m) **Provide the flexibility to address future changes to land use needs.**

The Provincial Lands Act and regulations thereunder provide the authority for all Crown land decisions. The current Act and Regulations are founded in the 1960's; another time and era with different values. The current legislation is administrative in nature and does not reflect the land management and planning components that have become commonplace.

The process of drafting new legislation will foster the kind of debate that will lead to legislation that is anchored in the 21st century and will set the stage for the next generation to ensure that the Crown land in the province benefits all.

Reconciling Conflicting Viewpoints

Views on how Crown land should be administered cover a broad spectrum and are often in direct conflict, depending on perspective. The Subcommittee discovered this early in the consultation process. Reconciling these conflicting viewpoints is a daunting challenge; clearly setting up the potential for winners and losers in any policy change. This is undoubtedly the dilemma that successive governments have faced in the evolution of Crown land policy.

In order to make recommendations that achieved a balance to the conflicting viewpoints, the following principles guided the Subcommittee:

- The public's interest in ensuring sustainable Crown land management supercedes any individual allocation of a private benefit;
- Economic activity requires the allocation of private benefits in a manner that results in secure tenure;
- The rights associated with any disposition must be clearly spelled out and understood by the disposition holders, and;

- Crown land, under native vegetation, represents a valuable inheritance to future generations and must be managed accordingly. Crown retention is but one tool to achieve this.

It is obvious that the expectations of some of the stakeholders will not be met by these recommendations. It is the Subcommittee's sincere hope; however, that they understand the balance sought. The Subcommittee believes that the recommendations in this report are true to the above principles. It is now contingent upon the government to have the courage to implement them.

Subcommittee

Members

Brad Wildeman	Chair
Red Williams	Vice-chair
Neal Hardy	Member
Thad Trefiak	Member
Brian Weedon	Member
Miles Anderson	Member
Keith Lewis	Member
Lester Lafond	Member
Wayne Bacon	Member
Ray Bashutsky	Member
Phil Reeves	Member

Resource

Greg Haase	Lead resource
Mary Brick	Resource
Ken Schmidt	Resource

Appendix A

ACRE Crown Land Subcommittee Questionnaire - Summary of Responses

This is a summary of the responses received for each question, highlighting the main points. It should be noted that each question did not have an equal number of responses since not all questions were answered. Also, there was one question that was not understood by a few, and several questions where respondents stated that they had no comment or had no experience with a particular issue. These specific cases are identified under the question they pertain to.

1. **Given the number of agencies involved in managing and administering Crown Land, what do you think the role of those agencies should be?**

   There was essentially the same number of responses that suggested agencies continue to administer Crown land separately, as there were for one agency to manage all Crown land. One respondent wanted Saskatchewan Agriculture and Food (SAFRR) to divest all of their Crown land. Environmental protection and multiple land uses were mentioned as important roles for Crown land.

   - Each Crown land agency should continue to manage and administer their own land. SAFRR should continue to manage agricultural Crown Land with a focus on agricultural sustainability, production of food and the encouragement of rural repopulation; Saskatchewan Environment should administer Parks, set regulations for environment and forestry; Sask Highways should administer gravel pits; and Saskatchewan Watershed Authority should be in charge of wetland conservation.
   - If Crown land is managed by separate agencies, policies and legislation should be harmonized, and agencies should work together more.
   - One department should manage and administer Crown land since conflicts, confusion, and unbalanced land use decisions occur with several different departments in charge. Another option is to create a single provincial land use planning committee with representatives from provincial departments.
   - Integrated Resource Management (IRM) approach should be followed. An IRM is a "planning and decision-making process that coordinates and prioritizes multiple resource uses so that long-term sustainable benefits are optimized". Using an IRM approach would mean that environmental, social and economic issues should be considered when dealing with multiple users in a way that causing a minimal amount of conflict.

- SAFRR should divest all of its land as farmers can manage their own land just as well.
- An important role of Crown land should include conservation of the natural landscape and managing lands in an environmentally sensitive manner.
- Would like to see multiple uses of Crown lands involving compatible economic uses. This could include expansion of cottage subdivision by making Crown land available; and facilitating private sector development and environmentally sensitive business development.

2. a) **Should the government continue to own Crown land or should legislation be changed to divest of all but the most sensitive lands?**

About half of the respondents stated that the current criteria of selling and retaining certain Crown lands should remain the same, and the other half thought that all Crown land should be sold. One agency felt that no Crown land should be sold.

- Current criteria for retaining Crown land are acceptable.
- Crown land is a valuable asset for future generations.
- Crown land is important to retain for the public because of the environmental issues and commitments.
- Divest all or most of Crown land. If not all, perhaps the cultivated lands.
- The lessee should have the first right of refusal to purchase land at a discounted price.
- No selling of Crown land regardless of its sensitivity as 6.3 million acres of the 7 million acres of Crown land are natural lands i.e. grass lands, wetlands, woodlands, and pasture.
- The Government does a good job of protecting the lands. By privatizing the lands, a farmer might put more emphasis on farm profit rather than environmental protection.

b) **In your opinion, which type of Crown land should be sold? Which should be retained?**

A mixture of responses was received ranging from no sale of any land, to selling all SAFRR Crown land. One respondent mentioned that any land that is sold should be sold with a conservation easement.

- No sale of any Crown lands, however would agree to use of cultivated land to acquire additional land in the interest of public good, or to help reach objectives of provincial initiatives i.e. Prairie Conservation Action Plan (PCAP), Representative Areas Network (RAN), North American Waterfowl Management Plan (NAWMP), Biodiversity Action Plan, and the Safe Drinking Water Strategy.

- Retain the following lands: natural landscape, environmentally sensitive, land covered by integrated land use plans, heritage value, public value, lands that are at risk of being destroyed by economic diversification.
- Sale of: cultivated lands; lands with no environmental value.
- Conservation easements should be placed on any lands that are sold.
- Divestiture of provincial parks and forest, and protected areas should not be considered, but greater commercial and recreational development within some of these areas should be encouraged as a way of Crown revenue generation.
- All SAFRR Crown land should be sold.
- All Crown land should be sold, with the intent of it being used for grazing only.

c) **Should there be other criteria preventing the sale of Crown land? If so, what?**

The majority of respondents did not suggest additional criteria that would prevent the sale of Crown land. However, one agency suggested that the purchaser should provide adequate proof that they will enhance or maintain the health of the land, retain or enhance its agricultural sustainability and maintain or improve local economic spin-off from it.

d) **How should Crown land be sold (i.e. highest bidder, market appraisal, public auction etc.) and to whom should it be sold (i.e. existing lessee, highest bidder, etc.)?**

The varied responses included:

- Market appraisal for existing lessee and highest bidder for unoccupied lands.
- Market appraisal should be based on number of years lessee has had the land.
- Existing lessee should be granted first right of approval.
- When selling land to a lessee, the purchase price of the ranching unit, and the cost of improvements should be deducted from the purchase price.
- Public tender or auction if lessee chooses not to purchase.
- Should be sold with a conservation easement.
- Present system of selling and leasing Crown land is adequate.

3. a) **Is 33 years an appropriate length of time for a lease? If not, what should it be?**

b) **Is the public best served with long term leases?**

All respondents felt that a long term lease was essential for long term stability of the land.

- A 33 year term for a lease is appropriate as it provides security and stability for the agricultural operation and creates better land management.
- Generally, a long term lease is appropriate where it promotes resource stewardship and as long as the lease conditions undergo periodic monitoring.
- Ideally, the lease should be dictated by the objectives set forth in an integrated land use plan.
- Lease terms should be set to prevent lessees from assuming additional use rights that belong to the public.

c) **Should producers' rights be changed if a 33 year lease is maintained? If so, how?**

The majority of respondents felt that producers' rights should not be changed. A couple of the respondents did not understand the question.

d) **Should producers be allowed to assign leases to family members and /or purchasers of the deeded land associated with the lease?**

All respondents agreed that producers should be able to assign leases.

- Yes, the lease land base is usually an integral part of the entire operation's viability, and part of a greater economic unit.
- Assign to family members, but not purchasers of associated deeded land.
- The right to assign a lease should only be given where it is in keeping with the public interest.

4. a) **Is SAFRR handling abuse situations appropriately?**

Responses were divided between SAFRR handling abuse situations satisfactorily, and more enforcement necessary.

- SAFRR is handling appropriately.
- Monitoring and enforcement of abuse regulations are insufficient. Staff from other departments, outside agencies and NGOs could help SAFRR with the land use monitoring process.
- A lessee should have to pay when lease conditions are broken, if not, the lease should be cancelled. Zero tolerance is needed.
- No experience with abuse situations.

b) **How would you suggest good management be promoted?**

Responses were varied. Some felt that there should be incentives while others thought that long term security is incentive enough. There was one "no comment" response.

- Past management practices should be considered when allocating a lease.
- Good management should be rewarded with rental reductions as well as providing good mangers a preference to lease or purchase leases.
- Good management is promoted when the lessee has a long term lease that is secure providing them with incentive to work towards long term sustainability of production.
- Current methods are adequate – lessees are given a chance to correct their situations.
- Disincentive for non-compliance or abuse of leased public land should be loss of lease privileges.
- No comment.

5. **Would you like to see integrated land use planning for Crown land continue? If so, at what level (local, regional, provincial or a combination of all three)?**

Most responses supported integrated land use planning at all three levels; two responses were for local only and two for provincial only. Two responses thought that integrated land us planning was a waste of time, especially as one respondent stated, if implementation of the plan does not occur.

6. a) **How should economic development opportunities be determined and balance with environmental protection?**

Most respondents stated that environmental protection should have the highest priority for Crown land.

- Environmental protection should have the highest priority for Crown land since future generations will have nothing if the lands are abused.
- Agriculture should be the first priority on Agriculture Crown land.
- Economic development opportunities should be considered only if they maintain or enhance the health of the land, the environment and the local economy.
- Liability is an issue with multiple use. Accordingly more research is necessary to generate a workable agreement for all parties involved. issue
- Steps must be taken to minimize the impact of environmental damage when looking at economic development.

- A common set of shared provincial Crown land use objectives should be developed and instituted through integrated land use management for all Crown lands in the Province. Objectives would include a full range of market (forage, grazing and wood) and non-market (ground water recharge, flood and erosion control, carbon sequestration) ecological goods and services.

b) **What criteria should be applied to land in order to determine priorities for use?**

Most respondents listed environmental protection as number one, followed by compatible economic opportunities. One respondent mentioned that potential uses should be based on Saskatchewan's commitment to major initiatives like Prairie Conservation Action Plan (PCAP), Representative Areas Network (RAN), North American Waterfowl Management Plan (NAWMP), Biodiversity Action Plan, and the Safe Drinking Water Strategy.

7. a) **Do you agree with the way lease rates are calculated and the resulting levels of rent? If no, please explain.**

b) **If you disagree with the current method of calculating rent, how would you suggest they be determined?**

Most agreed with the present way of calculating lease rates. However, a few mentioned the following methods of calculation:

- Calculation for the cost of production
- Take into consideration escalating costs, and events such as BSE.
- Rent should be competitive with private land rates.
- If lessee is receiving fewer rights than that commonly seen for leasing private land, then the rates should be adjusted accordingly.
- Incentives should be granted for lessees that have land use practices that go beyond good stewardship of public lands.
- Lease rate calculation might have to be expanded if other uses are permitted i.e. ecotourism.

8. a) **Do current access procedures adequately address the rights of both the lessee and person/company requiring access?**

b) **Keeping in mind that agricultural rent is calculated solely on agricultural use, should lessees be compensated for providing access, and if so, how should compensation be calculated?**

Two types of responses dominated - about half responded that the existing access procedures were adequate and the other half wanted more compensation for oil and gas, similar to compensation rates for deeded land. It was stated that

compensation should cover: time and mileage connected with meetings with the oil and gas company, surveyors, environmental assessors and contractors, as well as disruption in the use of the land. One respondent mentioned that compensation should be paid for other uses of the land such as: timber harvest sand and gravel development, hunting and recreation. Another responded that lessees should not receive payment for allowing access on public land.

9. **How should improvements on Crown leases be handled?**

Most respondents stated that there was no reason to change how improvements are currently handled. One response was that SAFRR should pay for the improvements when they are placed on the land, and not to wait until the lease is surrendered.

10. a) **What role, if any, should Crown land play in environmental and ecological conservation, and ensuring biodiversity.**

Most responded that Crown land should play a strong role in environmental protection, with some stating that the lessees are doing a good job in achieving this goal.

- Crown land should play a strong role in environmental protection since much of the remaining biodiversity and habitat exists on Crown land. SAFRR has played a strong role in helping Saskatchewan achieve its biodiversity strategy objectives and should continue to do so via provincial commitments to the Prairie Conservation Action Plan (PCAP), Representative Areas Network (RAN), North American Waterfowl Management Plan (NAWMP), Biodiversity Action Plan, and the Safe Drinking Water Strategy.
- Crown land should serve as best practices and bench marks to which all other land uses can be compared to.
- Ranchers have played a major role in environmental and ecological conservation, and have been stewards of the land for 100 years with little government help.
- Lessees doing a good job; Crown should only provide guidance.
- Some current rules do more damage to the ecosystem by being too restrictive in permitted uses.
- Crown land decisions should consider a balance between environmental impact and economic benefit.

b) **Are current practices adequate to ensuring environmental sustainability?**

Most respondents stated that more improvement is needed to ensuring environmental sustainability, with only one stating that current practices are adequate.

- Continue to improve:
  i. Decision making process, as time frames are very lengthy and tend to discourage economic development;
  ii. SAFRR's role;
  iii. Legislation.
- Rewarding best management with reduced rental rates.
- Long term stability of leases will provide motivation to manage properly.
- There should be more meaningful involvement by SAFRR with stakeholders.
- Current practices are focused on leasing of land for production of forage, grain and wood.
- Two thirds of the community pastures lack basic range plans to ensure proper range management and to ensure environmental sustainability of the flora and fauna.
- Provincial agencies should work together jointly to develop and implement an Integrated Resource Management Plan for Crown lands.
- Crown land should be used more to help safeguard wetlands and source water quality. This would help provide other wildlife conservation and biodiversity benefits.

11. **Other thoughts or Concerns about Crown land?**

This section allowed respondents to make any other further comments they had about Crown land. Also included in this section are comments made by two agencies that did not answer the questionnaire, but gave a presentation instead.

- The province's land use policies/legislation should be standardized.
- Other uses i.e. ecotourism should be legislated as being a valid Crown land use.
- Purchasing Crown land should remain an option to current lessees, and leases should continue to be assignable.
- Ranchers have not been recognized as stewards of the land. Many have helped keep native prairie intact. In the past, government's policy to break land, seed crested wheat grass, and impose size limits have contributed to the destruction of the land.
- Lessees' concerns should be considered where something occurs on their land that directly affects them.
- Incentives for ranchers will help them continue to do a good job.

- All the issues raised in the questionnaire are very complex and integrated and would involve lengthy changes to numerous acts, regulations and policies that govern Crown land.
- NGOs are an important resource for developing and implementing the IRM process, monitoring, assisting with management planning, facilitating land use exchange, and, identifying and quantifying ecological service benefits for Crown lands.
- Would like to see access to Crown lands for First Nations resource users improved as first nation hunters are facing numerous challenges on SAFRR and SE Crown land.
- Dialogue should be generated between First Nations and lessees to increase access opportunities.
- Terms of the land bank leases should be honoured and any changes to lease policies should occur with the approval of the tenants, and be consistent with:
    - Long-term security of tenure;
    - Fair and equitable productive rental formula;
    - Option to purchase;
    - Intergeneration transfer option;
    - Terms which replicate, as much as possible, private ownership.